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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,943	11/20/2003	Bodo Homann	028987.52713US	6800
23911	7590	06/20/2005	EXAMINER	
CROWELL & MORING LLP. INTELLECTUAL PROPERTY GROUP P.O. BOX 14300 WASHINGTON, DC 20044-4300			PEDDER, DENNIS H	
			ART UNIT	PAPER NUMBER
			3612	

DATE MAILED: 06/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/716,943	HOMANN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Dennis H. Pedder	3612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 07 June 2005.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-3 and 5-27 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 14-16 is/are allowed.  
 6) Claim(s) 1-3,5-13 and 17-27 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 14 February 2005 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____ .  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/25/2005</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____ .                                  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-3, 5-13, 17-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term “relatively narrow distance” is vague and without frame of reference. For example, does a potential infringer with distance of one half inch infringe? How about one inch?

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

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invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1-3, 5, 17-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Porsche in view of Kanou.

Porsche has the removable roof 7 of plastic material (page 3, lines 63-76), roll bar 6, windshield frame 2, and has partial interior walls at 17 and 25, leaving the central portion of the roof single panel.

Kanou teaches that a removable roof may be constructed of dual panels 8 and 9, the panels meeting at edge regions only and the panels are spaced apart narrowly and delimited by inwardly expanded interior wall profilings as clearly shown in figures 2,3,6,7,11 and 13. As a result of this prior art reference, it would have been obvious to one of ordinary skill to provide in Porsche a dual panel edge joined roof as taught by Kanou in order to strengthen the assembly.

As to claims 2-3, this material and adhesive bonding of panels are common knowledge in this art, obvious to use here as a light weight and strong material and as an extremely strong bond.

As to claims 17-20, these features are of common knowledge in the art and not indicative of patentability.

As applicant has not challenged these statements of judicial notice, they are made final.

6. Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Porsche in view of Kanou as applied to claim 5 above, and further in view of Perks.

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It would have been obvious to one of ordinary skill to provide in the references above a recessed U-shaped mounting in the roof inner panel in order to accommodate a roof locking device as taught by Perks. Motivation is self-evident. Such recessed mounting reduces chance of injury.

7. Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Porsche in view of Kanou and Perks as applied to claim 6 above, and further in view of Chrysler, US Re. 32,496.

It would have been obvious to one of ordinary skill to provide in the references above a U-shaped cross section receiving a window seal as taught by Chrysler at 34, figure 8 in order to seal the interior environment.

8. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Porsche in view of Kanou, Perks, and Chrysler as applied to claim 10 above, and further in view of Steyer-Daimler-Puch AG .

It would have been obvious to one of ordinary skill to provide in the references above dual roof elements as taught by Steyer-Daimler-Puch AG in order to reduce the weight during removal of the roof.

9. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Porsche, Kanou, Perks, Chrysler, and Steyer-Daimler-Puch AG as applied to claim 12 above, and further in view of Farber.

Prior to the invention of applicant, Farber taught that the juncture of two roof elements could be sealed by means of a channel member 26 carried by one of the roof elements and comprising a sixth profiling rotated 90 degrees and open toward the other profiling

and carrying another sealing body 25, as well as a drain channel 70. As a result, It would have been obvious to one of ordinary skill to provide in the references above a seal structure as taught by Farber in order to dispose of inadvertent leakage past the primary seal of two roof elements.

*Allowable Subject Matter*

10. Claims 14-16 are allowed.

*Response to Arguments*

11. Applicant's arguments filed 6/13/2005 have been fully considered but they are not persuasive.

Firstly, the roof of Porsche has partial interior walls at 25,17. The teachings of Kanou are clear in regard to the use of a full interior wall joined at edge regions only and with recesses therein.

The argument that Kanou does not have an inwardly expanded interior wall profiling at the right hand end is traversed. See figures 2, 3, 13 and 16.

*Conclusion*

12. This is a RCE of applicant's earlier Application No. 10/716,943. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

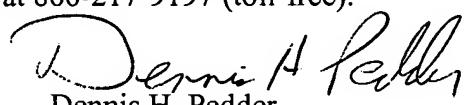
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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis H. Pedder whose telephone number is (571) 272-6667. The examiner can normally be reached on 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn D. Dayoan can be reached on (571) 272-6659. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Dennis H. Pedder  
Primary Examiner  
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